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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,671	12/06/2000	Glen Tindal	CNTW-004/00US	8808

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EXAMINER

LIN, KENNY S

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/730,671	Applicant(s) TINDAL ET AL.	
	Examiner Kenny Lin	Art Unit 2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-13 and 16-23 is/are rejected.
- 7) ☒ Claim(s) 14, 15 and 24-32 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/5/2004</u> | 6) <input type="checkbox"/> Other: _____  |

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### **DETAILED ACTION**

1. Claims 1-34 are presented for examination.

#### ***Election/Restrictions***

2. Applicant's election without traverse of Claims 8-32 in the reply filed on 9/10/2004 is acknowledged.
3. Claims 1-7 and 33-34 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/10/2004.
4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Information Disclosure Statement***

5. The information disclosure statement (IDS) submitted on 3/5/2004 is considered by the examiner.

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6. The information disclosure statements filed on 12/6/2000, 1/8/2002 and 5/30/2003 fail to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

7. The information disclosure statements filed on 12/6/2000, 1/8/2002 and 5/30/2003 fail to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because no legible copies of each cited foreign patent document and non-patent literature publication submitted. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

***Allowable Subject Matter***

8. Claims 14-15 and 24-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Claim Rejections - 35 USC § 102***

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9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 16 and 21-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Caterisano, WO 98/18235.

11. Caterisano was cited by the applicant in IDS submitted on 1/8/2002.

12. As per claim 16, Caterisano taught the invention as claimed including a method for transferring data, the method comprising the steps of:

- a. Receiving a content transfer request (page 8, lines 2-13, 17-24, page 13, lines 2-11);
- b. Determining the transfer priority of the content associated with the content transfer request (page 8, lines 2-13, 17-24, page 13, lines 2-11);
- c. Identifying a path for transferring the content associated with the content transfer request, the identified path including a plurality of network devices (page 15, lines 12-16);
- d. Configuring at least a first of the plurality of network devices to assist in a content transfer corresponding to the content transfer request (page 15, lines 16-21, page 22, lines 24-27, page 23, lines 1-3); and

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- e. Responsive to the completion of the content transfer request, returning the at least a first of the plurality of network devices to a default setting (page 22, lines 24-27, page 23, lines 1-3).

13. As per claim 21, Caterisano taught the invention as claimed in claim 16. Caterisano further taught the method to comprise the step of generating device-specific commands for the at least a first network device; wherein the generated device-specific commands are configured to enable the priority data handling feature associated with the at least a first network device (page 15, lines 16-21, page 22, lines 24-27, page 23, lines 1-3, page 26, lines 14-21).

14. As per claim 22, Caterisano taught the invention as claimed in claim 21. Caterisano further taught the step of determining a bandwidth for transferring the content within the requirements of the determined transfer priority; wherein the generated device-specific commands are further configured to enable at least a first network device to assist in providing the determined bandwidth (page 13, lines 2-11, page 15, lines 16-21, page 22, lines 24-27, page 23, lines 1-3, page 26, lines 14-21, page 31, lines 9-15).

15. As per claim 23, Caterisano taught the invention as claimed in claim 21. Caterisano further taught the step of retrieving a configuration record from a central repository of configuration records, the retrieved configuration record being unique to the at least a first network device and the retrieved configuration record including configuration information about the at least a first network device (page 29, lines 19-27).

*Claim Rejections - 35 USC § 103*

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 8-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caterisano, WO 98/18235, in view of Le Boudec et al (hereinafter Le Boudec), US 6,016,306.

18. Le Boudec was cited by the applicant in IDS submitted on 1/8/2002.

19. As per claim 8, Caterisano taught the invention substantially as claimed including a method for optimizing data transmissions (page 4, lines 18-26), the method comprising the steps of:

- a. Receiving a request for routing priority for a transaction, the request being originated by a content provider (page 8, lines 2-13, 17-24, page 13, lines 2-11);
- b. Identifying a service level available to the content provider (page 13, lines 8-11, 26-27, page 14, lines 1-4);
- c. Identifying at least a first transmission path accessible by the content provider, wherein the first transmission path includes at least a first network device (page 15, lines 12-16);

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- d. Enabling a priority data handling feature associated with the at least a first network device (page 15, lines 16-21, page 22, lines 24-27, page 23, lines 1-3); and
- e. Responsive to completion of the transaction associated with the received request, disabling the enabled priority data handling feature (page 22, lines 24-27, page 23, lines 1-3).

20. Caterisano did not specifically teach to determine a data transmission priority level to which the content provider is entitled, the data transmission priority level based upon, at least, the identified service level and the request for request priority. Le Boudec taught a method of determining a data transmission priority level to which the content provider is entitled, the data transmission priority level based upon, at least, the identified service level and the request for routing priority (col.3, lines 14-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Caterisano and Le Boudec because Le Boudec's teachings of determining the data transmission priority level enables Caterisano's method to select a best transmission path with sufficient bandwidth for data transmission (col.4, lines 23-31).

21. As per claims 9-10, Caterisano and Le Boudec taught the invention substantially as claimed in claim 8. Caterisano further taught that the transaction is defined at least partially in terms of a timeframe or a volume of data (page 31, lines 9-15).



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22. As per claim 11, Caterisano and Le Boudec taught the invention substantially as claimed in claim 8. Le Boudec further taught the step of identifying at least a first transmission path comprises the step of: identifying at least a first router on that transmission path (col.6, lines 57-61). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Caterisano and Le Boudec because Le Boudec's teachings of determining the data transmission priority level enables Caterisano's method to select a best transmission path for data transmission and also identify routers on the transmission path in Caterisano's method.

23. As per claim 12, Caterisano and Le Boudec taught the invention substantially as claimed in claim 8. Caterisano further taught the method to comprise the step of: generating device-specific commands for the at least a first network device; wherein the generated device-specific commands are configured to enable the priority data handling feature associated with the at least a first network device (page 15, lines 16-21, page 22, lines 24-27, page 23, lines 1-3, page 26, lines 14-21).

24. As per claim 13, Caterisano and Le Boudec taught the invention substantially as claimed in claim 8. Caterisano further taught the method comprise the step of: retrieving a configuration record from a central repository of configuration records, the retrieved configuration record being unique to the at least a first network device and the retrieved configuration record including configuration information about the at least a first network device (page 27, lines 19-27).

25. Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Caterisano, WO 98/18235, in view of "Official Notice".

26. As per claim 17-19, Caterisano did not specifically teach to use content provider identifiers and a data volume indicator, data priority indicator including a data type indicator. However, Official Notice is taken that the concept and advantage of using identifiers and indicators are well known and expected in the art. One would have been motivated to use various identifiers and indicators to notify the user of various events or alarms. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of Caterisano and also provide identifiers and indicators to identify various types of data and events or indicate volumes and alarms to the users or administrators of the content provider.

27. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Caterisano, WO 98/18235 and Official Notice, in view of Le Boudec et al (hereinafter Le Boudec), US 6,016,306.

28. As per claim 20, Caterisano taught the invention substantially as claimed in claim 19. Caterisano did not specifically teach the step of determining the priority comprises the step of determining the transfer priority based upon, at least, the data type indicator. Le Boudec taught a method of determining a transfer priority based upon a data type indicator (col.3, lines 14-34). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

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combine the teachings of Caterisano and Le Boudec because Le Boudec's teachings of determining the transfer priority enables Caterisano's method to select a best transmission path with sufficient bandwidth for data transmission (col.4, lines 23-31).

### *Conclusion*

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Miller et al, US 5,920,701.

Basso et al, US 6,370,119.

Rodriguez-Moral, US 6,260,072.

Galand et al, US 5,956,341.

30. A shortened statutory period for reply to this Office action is set to expire THREE MONTHS from the mailing date of this action.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenny Lin whose telephone number is (571) 272-3968. The examiner can normally be reached on 8 AM to 5 PM Tue.-Fri. and every other Monday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ksl  
March 17, 2005

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